

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)

Plaintiff,)

JOHN BALDWIN, LEONARD BELL,)
JOHANNES KAINDOH AND WAYNE)
HENDERSON, JOE L. WILLIS and)
GODWIN ENAGBARE)

Intervenor-Plaintiffs)

-against-)

WASHINGTON GROUP)
INTERNATIONAL, INC.)

Defendant.)
_____)

Civil Action No. 04-12097-GAO

SECOND JOINT MOTION FOR EXTENSION OF TIME
FOR DISCOVERY AND MEDIATION

The parties respectfully request an additional five-month extension of time in which to conduct discovery in the above captioned case geared towards preparation of the case for a private mediation scheduled on October 31, 2006. Discovery is currently set to close on August 16, 2006. This extension would provide the parties an additional five months – until January 15, 2006 - to conduct some necessary discovery in preparation for mediation, the time to mediate the case, and to thereafter handle any settlement related issues that follow the mediation. In the event that the mediation is unsuccessful, additional time to complete discovery in this case is likely to be requested. Should mediation be unsuccessful, the parties propose that they will

jointly communicate a request for a status conference with the Court as soon as possible after the mediation to discuss any remaining discovery to be completed and the management of the case's discovery schedule. The parties would file a revised scheduling order simultaneous to or after the status conference, at the Court's preference.

In support of this Joint Motion for Extension of Time, the parties state as follows:

1. The parties remind the Court that this is a class race discrimination case brought by the EEOC on behalf of all six African-American Charging Parties and all similarly situated employees affected by Defendant's discriminatory practices. The case was filed by the EEOC on September 30, 2004. The allegations in the EEOC's complaint arose while Defendant was general contractor at a power plant in Everett, Massachusetts. Although this case does not present any particularly unique legal issues, discovery in this case has been uniquely time consuming and the structure of the case – a class case – is complex. Each of the Charging Parties/Intervenor-Plaintiffs, many of the additional claimants identified to date by the EEOC,¹ and most of both defense and plaintiff witnesses in this case, were "travelers" to this area when employed by Defendant. This means they do not reside in the Massachusetts area and only came to Massachusetts for work. Coordinating schedules and travel plans for depositions, in addition to the coordination of the schedules of the four counsels of record and corporate representatives has been very difficult. Distance and time zone differences have also lengthened coordinating the completion of discovery responses. This is a large, complex case with unique scheduling challenges.

¹ The EEOC has to date identified fifteen additional claimants; these individuals reside in various cities in Texas, Louisiana, Pennsylvania, Florida, Ohio, and some in Massachusetts.

2. Notwithstanding the complexity, size and scheduling challenges in this case, the parties inform that Court that they have been actively involved in the discovery phase of the case. Since filing, the following has been accomplished: (1) the parties have exchanged initial disclosures and supplemented them several times; (2) the parties have served two sets of interrogatories and document requests and have made significant efforts to comply with these requests; (3) the parties have completed the depositions of the each of the six Charging Parties/Intervenor-Plaintiffs; (4) the EEOC has identified fifteen additional claimants in this class lawsuit and has updated its initial disclosures to Defendant in that regard; (5) Plaintiffs have taken a two-day deposition of a key defense witness and have served over twenty additional deposition notices [the parties have agreed these depositions will only be taken if mediation is unsuccessful]; and (6) the parties have spent a considerable amount of time discussing the possibility of mediation as appropriate in this case – ultimately determining that it would be appropriate and productive. The parties have selected a mediator and have scheduled the mediation to take place on October 31, 2006 in Boston. The mediation date has been scheduled in October to allow time for some discovery to be conducted that will facilitate the mediation. The parties have been working collaboratively to expedite this pre-mediation discovery.

This case is currently scheduled for a status conference before the Court on September 6, 2006. The parties are amenable to participating in a status conference should the Court wish to do at any time prior to or after the mediation scheduled but believe the September 6, 2006 status conference may be unnecessary.

WHEREFORE, the parties request that this Joint Motion be granted.

Date: June 23, 2006

Respectfully submitted on behalf of and with the authority of Defendant and Plaintiff
Intervenor's counsel to this action,

/s/ R. Liliana Palacios
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CERTIFICATE OF SERVICE

I, R. Liliana Palacios, hereby certify that on this 23rd day of June 2006, I caused a copy of the above document to be mailed, postage prepaid, to all the attorneys of record in the above captioned case:

/s/ R. Liliana Palacios
Senior Trial Attorney